

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

#

DECISION

TOPIC

**Final Rules: Air Quality Regulatory Certainty Rules Part 2 - Chapters
20, 22, 23, 25, 30, 33 and 34**

The Department is requesting that the Commission adopt amendments to Chapter 20, “Scope of Title—Definitions—Forms—Rules of Practice,” Chapter 21, “Compliance,” Chapter 22 “Controlling Pollution,” Chapter 23, “Emission Standards for Contaminants,” Chapter 25, “Measurement of Emissions,” Chapter 30, “Fees,” Chapter 33, “Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD)” and Chapter 34, “Provisions for Air Emissions Trading Programs” of the 567 Iowa Administrative Code.

Reason for Rulemaking

The purpose of the air quality rule changes is to:

- 1) Rescind unnecessary rules and update other rules to provide regulatory certainty and flexibility. The rules will implement a portion of the Department’s 5-year rules review plan to accomplish the requirements of Iowa Code section 17A.7(2).

- 2) Offer uniform rules by making changes that match federal regulations and eliminating inconsistency between federal and state rules. By adopting federal updates into state administrative rules, the Commission is ensuring that Iowa’s air quality rules are no more stringent than federal regulations. Additionally, the updates allow the Department, rather than the EPA, to be the primary agency to implement the air quality requirements in Iowa, thereby allowing the Department to provide compliance assistance and outreach to affected facilities.

Summary of Rule Changes

The rule changes continue previous efforts to identify rules that can be rescinded or amended for air quality program, including construction permits, Title V permits, Prevention of Significant Deterioration (PSD), air toxics standards, and testing and monitoring methods because the rules are outdated or obsolete. The rules achieve a purpose similar to the Regulatory Certainty rulemaking package adopted earlier this year.

The rule changes also include adoption of revisions to federal air toxics standards (also known as National Emissions Standard for Hazardous Air Pollutants or NESHAP) and new source performance standards (NSPS). These include changes affecting existing federal standards that are already adopted by reference, but that EPA has since amended.

Adopting EPA's amendments allows state rules to be consistent with federal regulations, and provides certainty to affected businesses and other interested stakeholders.

Public Comments

The Department received no public comments on the Notice of Intended action at the public hearing held on January 22, 2018 and received no written comments prior to the January 22 public comment deadline. However, after Notice of Intended Action was published, the Department became aware of planned EPA changes to federal regulations affecting the amendments proposed in Item 11 and Item 14. Consequently, the Department is requesting that the Commission make changes to the adopted amendments for Item 11 and Item 14 from what was published in the Notice, as explained in the attached Adopted and Filed rules.

If the Commission approves the final rules, the Adopted and Filed rules will be published on March 14, 2018, and will become effective on April 18, 2018.

The Adopted and Filed rules, Jobs Impact Statement and Fiscal Impact Statement are attached.

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Memo date: January 29, 2018

ENVIRONMENTAL PROTECTION COMMISSION [567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission (Commission) hereby amends Chapter 20, “Scope of Title—Definitions,” Chapter 22, “Controlling Pollution,” Chapter 23, “Emission Standards for Contaminants,” Chapter 25, “Measurement of Emissions,” Chapter 30, “Fees,” Chapter 33, “Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality,” and Chapter 34, “Provisions for Air Quality Emissions Trading Programs,” Iowa Administrative Code.

The purposes of this rule making are to:

1. Rescind unnecessary rules and update other rules to provide regulatory certainty and flexibility. The amendments implement a portion of the Department of Natural Resources’ (Department’s) five-year review of rules plan to accomplish the requirements of Iowa Code section 17A.7(2).

2. Offer uniform rules by making changes that match federal regulations and eliminate inconsistencies between federal regulations and state rules. By adopting federal updates into state administrative rules, the Commission is ensuring that Iowa’s air quality rules are no more stringent than federal regulations. Additionally, the updates allow the Department, rather than the U.S. Environmental Protection Agency (EPA), to be the primary agency to implement the air quality requirements in Iowa, thereby allowing the Department to provide compliance assistance and outreach to affected facilities.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 20, 2017, as **ARC 3520C**, and a public hearing was held on January 22, 2018 in Des Moines, Iowa. The Department received no comments at the public hearing. The

Department received no written comments prior to the January 22, 2018, deadline for public comments. However, after Notice of Intended Action was published, the Department became aware of planned EPA changes to federal regulations affecting the amendments proposed in Item 11 and Item 14. Consequently, the Commission made changes to the adopted amendments for Item 11 and Item 14 from what was published in the Notice, as explained below. The Commission did not make any other changes from the amendments published under Notice of Intended Action.

Item 1 amends rule 567—20.2(455B), definition of “EPA reference method,” to adopt the most current EPA methods for measuring air pollutant emissions (stack testing and continuous monitoring). On August 30, 2016, EPA revised the reference methods in 40 Code of Federal Regulations (CFR) Parts 51, 60, 61 and 63 to eliminate outdated procedures, add alternative testing methods, make technical corrections, and correct typographical and grammatical errors. Several of the updated test methods in Parts 51, 60, 61 and 63 are adopted by reference in 40 CFR Part 75 for the Acid Rain Program. Adopting EPA’s updates ensures that state reference methods match current federal reference methods and are no more stringent than the federal methods. Further, the alternative test methods offer regulatory flexibility to affected facilities. The amendments in Items 6, 10, 11, 12, 13, 14, 15 and 16 are adopted concurrently with this amendment to similarly reflect updates to EPA testing and monitoring methods as the methods apply to specific air quality programs.

Item 1 also updates the definition of “volatile organic compounds” (VOC) to reflect recent changes that EPA made to the Federal definition of VOC. On August 1, 2016, a final regulation was published in the Federal Register to exclude the compound 1,1,2,2-

tetrafluoro-1-(2,2,2-trifluoroethoxy) Ethane (HFE-347pcf2) from the federal definition because this compound makes a negligible contribution to tropospheric ozone formation. In Item 19, an amendment to subrule 33.3(1) is adopted concurrently with the amendment in Item 1 to similarly update the definition of “volatile organic compounds” for the specific air quality programs.

Item 2 amends paragraph 22.1(2)“i” to correct a cross reference to a definition. The current cross reference is to paragraph 22.5(1)“f,” which no longer exists. All provisions that were previously included in rule 567—22.5(455B) are now in Chapter 31. The cross reference is revised to refer to the correct definition included in subrule 31.3(1).

Item 3 amends paragraph 22.1(2)“r” to make updates to the exemption for internal combustion engines with a brake horsepower rating of less than 400. The amendment clarifies that owners and operators of engines that are not required to submit to the Department an engine registration may qualify for this exemption. The revision provides certainty to affected facilities and reduces the regulatory burden of completing an unneeded engine registration to qualify for this exemption.

Item 4 amends subparagraph 22.1(2)“w”(1) to correct an error in the eligibility criteria for the “small unit” exemption. The small unit exemption is available as an alternative to obtaining a construction permit for owners and operators of emission units that emit less than certain thresholds of specific air pollutants. For an emission unit to qualify for the small unit exemption, the unit must emit less than the emission thresholds for each of the pollutants listed. However, the list of criteria has the word “or” between the last two items in the list, which could lead affected owners and operators to conclude that an emission unit does not need to meet all of the criteria in the list.

The intent of the small unit exemption is that the emission unit must emit less than each of the emission thresholds included in the list. Further, the Department has implemented the exemption in this manner since its adoption. It is therefore appropriate to revise this exemption to include the word “and” rather than “or” between the provision for “PM_{2.5}” and the one for “hazardous air pollutants” in the list of air pollutants. This amendment reflects the original intent and ongoing implementation of the small unit exemption and provides clarity to owners and operators that may wish to use this exemption.

Item 5 amends the provisions for permit by rule for spray booths specified in paragraph 22.8(1)“a.” The amendment allows powder coat material to be used in paint booths without being considered “sprayed material,” provided the powder coating is applied in an indoor-vented spray booth equipped with filters or an overspray powder recovery system. The Department has evaluated the particulate emissions from powder coating and has determined that emissions occurring under the conditions specified in the permit by rule would not contribute to exceedances of the ambient air quality standards for particulate matter. The amendment excludes powder coatings from the definition of “sprayed material” for purposes of the permit by rule.

Item 6 amends rule 567—22.100(455B) to update the definition of “EPA reference method” for the Title V operating permit (Title V) program to adopt the most current federal reference methods for stack tests and continuous emissions monitoring in the same manner as described above for Item 1. This amendment implements a portion of the Department’s five-year review of rules plan by ensuring that the state rules for the Title V program, specifically the test methods, are consistent with federal requirements and are no

more stringent than federal requirements.

Item 7 amends subparagraph 22.103(2)“b”(6) to revise the criteria for an emergency engine rated at less than 400 horsepower to be considered an insignificant activity for the Title V program. The proposed amendment clarifies that engines subject to federal new source performance standards (NSPS) or national emission standards for hazardous air pollutants (NESHAP) are not considered insignificant activities for purposes of the Title V program because the federal standards impose applicable requirements for emergency engines.

Item 8 updates the provisions for Title V emissions inventories in subrule 22.106(2) to eliminate the requirement to submit specific forms for the inventory and to state instead that the emissions inventory shall be submitted on forms specified by the Department. The amendment provides needed flexibility for the Department to streamline the emissions inventory forms and submittal methods.

Item 9 amends subrule 22.107(6) to update the public notice requirements for the Title V program to reflect changes to federal regulations that EPA finalized on October 18, 2016. Previously, EPA required that public notice be given by publication in a newspaper of general circulation where the source being permitted is located or in a state publication. EPA revised the public notice provisions to allow for posting of the public comment period on a website identified by the permitting authority (the Department). EPA’s revisions also require that permitting authorities be consistent in the method of providing public notice, although other means to provide adequate notice may be used if necessary. To reflect EPA’s changes, this amendment specifies that the Department will provide public notice by posting on a public website identified by the Department, while using other means if

necessary to ensure adequate notice to the affected public.

Item 10 amends rule 567—22.120(455B) to update the test methods specified in 40 CFR Part 74 for the Acid Rain Program in the same manner as described above for Item 1.

Items 11, 12, 13 and 14 affect new source performance standards, hazardous air pollutant standards, and emission standards for existing sources. The U.S. Clean Air Act (CAA) obligates the EPA to issue standards to control air pollution. Two categories of standards, the NSPS and NESHAP, set standards and deadlines for industrial, commercial or institutional facilities to meet uniform standards for equipment operation and air pollutant emissions.

NESHAP regulations differ depending on whether a facility is a “major source” or an “area source.” Major sources are typically larger facilities and have potential emissions of 10 tons or more per year of any single hazardous air pollutant (also known as “HAP” or “air toxics”) or 25 tons or more of any combination of HAPs. Area sources have potential air toxics emissions at less than the major source thresholds. Although area sources generally emit less air toxics than major sources, area sources are more numerous and may collectively cause adverse impacts to public health.

Because the NSPS and NESHAP proposed for adoption by reference are federal regulations, affected sources are subject to the federal requirements regardless of whether the Commission adopts the standards into state rules. However, the CAA allows a state or local agency to implement NSPS and NESHAP as a “delegated authority.” Upon state adoption of the standards, the Department becomes the delegated authority for the specific NSPS or NESHAP and is the primary implementation agency in Iowa. Two local agencies,

Polk County and Linn County, implement these standards within their counties. Iowa's rules, including all compliance deadlines, are identical to the federal NSPS and NESHAP as of a specific date. With implementation authority, the state and local agencies have the ability to make applicability determinations for facilities, rather than referring these decisions to EPA.

Emission standards for existing sources (known as Emission Guidelines) are similar to NSPS, but direct states to set emission standards by certain deadlines for specific existing sources. EPA's Emission Guidelines provide "model rules" that states may adopt by reference in setting the requirements for existing sources. EPA requires states to establish Emission Guidelines that are at least as rigorous as EPA's model rules. As it does with NSPS and NESHAP, the Commission adopts Emission Guidelines by reference so that the requirements are no more or less stringent than federal requirements. If the Commission does not adopt the Emission Guidelines, EPA will impose a federal plan with emission standards for affected facilities. Because EPA may set standards with compliance deadlines that are earlier than those allowed under state plans, it is generally advantageous for the state to adopt these guidelines.

Stakeholders affected by NSPS, NESHAP and Emission Guidelines typically prefer for the Department, rather than the EPA, to be the primary implementation authority in Iowa. Upon adoption of the new and amended standards, the Department will work with affected facilities to provide compliance assistance, as needed. Additionally, affected area sources that are small businesses are eligible for free assistance from the small business assistance technical program.

Item 11 amends subrule 23.1(2) to adopt new and revised NSPS, as described

below.

The text in parentheses in each section heading below indicates the applicable subpart(s) in 40 CFR Part 60 and the corresponding paragraph(s) in subrule 23.1(2).

Municipal Solid Waste Landfills (Subpart WWW; paragraph 23.1(2)“rrr”)

The Commission is revising the NSPS for municipal solid waste (MSW) landfills to make clear that, because of current litigation filed in the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit), Iowa is not adopting the recent federal amendments published in the Federal Register on August 29, 2016. Consequently, the adopted revision will specify the publication date for the federal NSPS that is currently adopted into the Iowa Administrative Code in 23.1(2)“rrr” for MSW landfills. (See also Item 14.)

Commercial and Industrial Solid Waste Incineration (Subpart CCCC; paragraph 23.1(2)“vvv”)

In the Notice of Intended Action, the Commission proposed to adopt by reference several amendments that EPA made over a five-year period to the NSPS for commercial and industrial solid waste incinerators (CISWI). However, after publication of the Notice, the Department became aware of a delay in EPA finalizing the Federal Plan for existing CISWI. Further, EPA indicated that changes might be made to the final Federal Plan from what was proposed. Since the requirements in the NSPS and Federal Plan are closely related, it is possible that EPA may propose changes to the NSPS for CISWI while re-proposing or finalizing the Federal Plan for existing CISWI. The Commission is therefore not, at this time, adopting the amendments to the NSPS for CISWI. At such time as EPA chooses whether or not to further amend the NSPS, the Commission will consider whether

or not to propose adoption of the federal amendments. Until then, affected facilities are subject to the federal NSPS, regardless of whether Iowa adopts the standards.

Stationary Compression Ignition Internal Combustion Engines (Subpart IIII, paragraph 23.1(2)“yyy”)

On July 7, 2016, EPA finalized amendments to the NSPS to allow manufacturers to design engines so that operators can override performance inducements related to the emission control system for stationary compression ignition internal combustion engines. The amendments apply only to engines operating during emergencies in which the operation of the engine or equipment is needed to protect human life. The amendments also require that the engine comply with federal Tier 1 emission standards during such emergencies. These federal amendments are adopted by reference through revision of the adoption date specified in the introductory paragraph of subrule 23.1(2).

Test Methods (Amendments throughout Part 60)

The amendment in Item 11 also adopts the changes EPA made to the NSPS test methods, as explained in the description above for Item 1. The federal amendments are adopted by reference through revision of the adoption date specified in the introductory paragraph of subrule 23.1(2).

Item 12 amends subrule 23.1(3) to adopt revisions to the NESHAP standards in 40 CFR Part 61 for EPA’s updates to test methods, as explained above for Item 1. The federal amendments are adopted by reference through revision of the adoption date specified in the introductory paragraph of subrule 23.1(3).

Item 13 amends subrule 23.1(4) to adopt, and in one case, to rescind adoption of, federal amendments to the NESHAP for source categories, as described below.

The text in parentheses in each section heading below indicates the applicable subpart(s) in 40 CFR Part 63 and the corresponding paragraph(s) in subrule 23.1(4).

Ferroalloys Production (Subpart XXX; paragraph 23.1(4)“bx”) - Rescission

This NESHAP applies to new and existing major sources of ferroalloys production of ferromanganese and silicomanganese. Iowa has no facilities affected by this NESHAP and is unlikely to have any affected facilities in the future. The Commission is therefore proposing to rescind adoption of this NESHAP.

The rescission will accomplish the Department’s goal of eliminating unnecessary rules and will implement a portion of the Department’s five-year review of rules plan to meet the requirements of Iowa Code section 17A.7(2). Removing unnecessary provisions makes the rules more accessible and understandable for regulated entities and for the public. If an affected facility should plan to locate to Iowa in the future, the Department will evaluate at that time whether to request adoption of the standard.

Industrial, Commercial and Institutional Boilers at Area Sources (Subpart JJJJJ; paragraph 23.1(4)“ej”)

The Commission is proposing to adopt by reference the original NESHAP and subsequent amendments that EPA finalized over a five-year period that affect new and existing industrial, commercial and institutional (ICI) boilers located at area sources. The Commission is now proposing adoption of these federal amendments because EPA’s reconsiderations and the litigation of the amendments have recently been resolved.

Background: EPA published the NESHAP for ICI boilers at area sources on March 21, 2011, and subsequently revised the NESHAP on February 1, 2013, and on September 14, 2016. The NESHAP, also known as the Area Source Boiler Rule, exempts from this

rule all boilers meeting the definition of natural gas-fired boilers, temporary boilers, and residential boilers. Additionally, new and existing boilers burning solid or liquid fuels that are very small, have limited or seasonal use, or burn only ultra-low-sulfur liquid fuel or burn primarily biomass, are not subject to emission limits and have only work practice standards, such as a one-time energy assessment and a one-time or periodic tune up (every five years). Other new and existing boilers burning coal, biomass or liquid fuels may need to meet numeric emission limits for some air toxics and have required testing or monitoring, depending on the type of boiler and specific fuel burned. Additionally, EPA's revised standards provide alternative compliance methods and more flexible monitoring for some boilers.

Prior to issuing the final amendments in September 2016, EPA requested a voluntary remand (without vacatur) of some provisions of the Area Source Boiler Rule. On July 26, 2016, the D.C. Circuit granted EPA's request and issued a remand without vacatur. The remand requires that EPA provide data to justify certain decisions that resulted in some requirements in the final federal regulations.

Affected facilities and compliance dates: Based on required initial notifications submitted to the Department, the Department estimates that 13 facilities in Iowa have boilers affected by the Area Source Boiler Rule. All of these facilities are required to comply only with work practice standards (rather than emission limits) by the NESHAP compliance date of March 21, 2014, or upon start-up of the affected boiler, whichever date occurs later. At this time, the Department is not aware of any new or existing boilers subject to emission limits and associated monitoring specified in the NESHAP.

Justification for proceeding with adoption despite the current remand: None

of the provisions in the final rules are stayed or delayed. Further, although the remand may impact emission standards and monitoring requirements in the NESHAP, none of the facilities in Iowa currently subject to the NESHAP are affected by emissions limits or monitoring requirements. Lastly, the compliance date for affected existing facilities to comply with work practice standards was March 21, 2014, so facilities have already been required to apply with the NESHAP for over three years.

Upon adoption of the Area Source Boiler Rule, the Department will work with affected facilities to provide compliance assistance as needed. Additionally, affected area sources that are small businesses are eligible for free assistance from the small business technical assistance program.

Test Methods (Amendments throughout Part 63)

The amendment to subrule 23.1(4) also adopts the changes EPA made to the NESHAP test methods, as explained in the description above for Item 1. The federal amendments are adopted by reference through revision of the adoption date specified in the introductory paragraph of the subrule.

Item 14 amends subrule 23.1(5) to revise adoption of the federal Emission Guidelines. As explained in more detail above, EPA's Emission Guidelines are set forth in 40 CFR Part 60 and direct states to set emission standards by certain deadlines for specific existing sources. EPA's Emission Guidelines provide "model rules" that states may adopt by reference in setting the requirements for existing sources. As with the NSPS and NESHAP, the Commission proposes to adopt EPA's Emission Guidelines by reference so that the requirements are no more or less stringent than federal requirements.

Municipal Solid Waste Landfills (Subparts Cc and WWW; paragraph 23.1(5)"a")

As with the proposed amendment to the NSPS for MSW landfills as described in Item 11, the Commission is proposing to revise the Emission Guidelines for existing MSW landfills to make clear that Iowa is not adopting the recent federal amendments published in the Federal Register on August 29, 2016. As with the NSPS, the recent amendments to the Emission Guidelines for existing MSW landfills are being litigated in the D.C. Circuit. Consequently, the proposed amendment will specify the publication date for the federal Emission Guidelines that are currently adopted into the Iowa Administrative Code in 23.1(5)“a” for existing MSW landfills.

Commercial and Industrial Solid Waste Incineration Units (CISWI) (Subpart DDDD; paragraph 23.1(5)“c”)

Similar to its proposed adoption of amendments in Item 11 as described above, the Commission, in the Notice of Intended Action, proposed to adopt by reference several amendments that EPA made over a five-year period to the Emission Guidelines (EGs) for existing CISWI. However, after publication of the Notice, the Department became aware of a delay in EPA finalizing the Federal Plan for existing CISWI. Further, EPA indicated that changes might be made to the final Federal Plan from what was proposed, including the February 8, 2018, compliance date.

Under the U.S. Clean Air Act, EPA must establish a Federal Plan for existing CISWI facilities in states that do not have an EPA-approved State Plan. Typically, a Federal Plan will consist of the identical “model rules” included in the EGs provided to states to include in their State Plans, including the compliance deadlines. However, in this case, the federal “model rules” in Subpart DDDD establish a compliance deadline of February 8, 2018, that will not be included in any final Federal Plan (because of the delay

in EPA finalizing the Federal Plan). If the Commission proceeded with adopting Subpart DDDD into state administrative rules, the state rules would be more stringent than EPA's eventual Federal Plan. Because Iowa Code 455B.133(4) prohibits state air quality rules from being more stringent than federal regulations, the Commission is not, at this time, adopting the federal amendments for a State Plan for existing CISWI. At such time as EPA chooses whether or not to further amend and finalize the Federal Plan for existing CISWI, the Commission will consider whether or not to propose adoption of the federal amendments.

Test Methods (Amendments throughout Part 60)

The amendment in Item 14 adopts the changes EPA made to the Part 60 test methods, as explained in the description above for Item 1, which are applicable to the Emission Guidelines adopted in subrule 23.1(5). The federal amendments are adopted by reference through revision of the adoption date specified in the introductory paragraph of subrule 23.1(5).

Item 15 amends subrule 25.1(9) to adopt the revised federal methods for emissions testing and monitoring, as described above for Item 1. The updates will make certain that only current federal test methods are used to demonstrate compliance with permit conditions and that required test methods are no more stringent than federal methods.

Item 16 amends rule 567—25.2(455B) to adopt federal updates for monitoring methods under the Acid Rain Program, as noted above for Item 1. This update ensures that state air quality rules for testing and monitoring are consistent and match federal regulations.

Item 17 amends paragraph 30.4(2)“b” to update the provisions for Title V

emissions fees and documentation to eliminate the requirement that specific forms be submitted with the fees and to instead state that the fees shall be submitted on forms specified by the Department. The revision is consistent with the changes proposed in Item 8 for submitting emissions inventory forms and provides needed flexibility for the Department to streamline the fee and form submittal methods.

Item 18 amends the introductory paragraph of rule 567—33.1(455B) to reflect recent changes that EPA made to the federal requirements for the PSD program. The specific changes are set forth in Items 19, 20 and 21.

Item 19 amends subrule 33.3(1) to update the definition of “volatile organic compounds” in the same manner as describe above for Item 1.

Item 20 amends subrule 33.3(17) to revise the public participation requirements for the PSD program. The changes reflect updates to federal regulations that EPA finalized on October 18, 2016, to allow for posting of the public comment period on a website identified by the permitting authority (the Department). EPA’s revisions also require that permitting authorities be consistent in the method of providing public notice, although other means to provide adequate notice may be used if necessary. To reflect EPA’s changes, this amendment specifies that the Department will provide public notice by posting on a public website identified by the Department, while using other means if necessary to ensure adequate notice to the affected public.

Item 21 amends subrule 33.3(22) to allow for rescission of PSD permits to match changes that EPA made on October 18, 2016, to the public notice requirements in 40 CFR 52.21 as explained above in the description of Item 20.

Item 22 rescinds rules 567—34.200(455B) to 567—34.229(455B), which include

Table 1A, Table 1B, Table 2A and Table 2B, to reflect EPA's rescission of the Clean Air Interstate Rule (CAIR). EPA replaced the federal CAIR regulations that were adopted by reference in Chapter 34 with the Cross States Air Pollution Rule (CSAPR) promulgated in 40 CFR 52.38 through 52.39 and 40 CFR Part 97. (The rescission of the CAIR provisions is explained in 40 CFR 51.123(ff) and 51.124(s).) Because CSAPR is primarily implemented by EPA, CSAPR in Iowa will be implemented through a federal implementation plan (FIP) rather than through a state-developed SIP.

Jobs Impact Statement

The following is a summary of the jobs impact statement. The complete jobs impact statement is available from the Department upon request.

After analysis and review of this rule making, the Commission has determined that the amendments specified in Items 1 through 10 and 15 through 22 will have either a positive or neutral impact on private sector jobs. These amendments rescind unnecessary rules, update other rules, and streamline the rules to provide regulatory certainty and, in some cases, regulatory relief. These amendments also implement a portion of the Department's five-year review of rules plan as required under Iowa Code section 17A.7(2). Additionally, most of these amendments make changes that match federal regulations and eliminate inconsistencies between federal regulations and state rules. By adopting federal updates into state rules, the Commission is ensuring that Iowa's air quality rules are no more stringent than federal regulations.

For the amendments specified in Items 11, 12, 13 and 14, the Commission has determined that there may be fiscal impacts to Iowa businesses. However, the amendments are only implementing federally mandated regulations. The amendments are identical to

the federal regulations and would not impose any regulations on Iowa businesses not already required by federal law. In some cases, the revised federal standards being adopted provide more flexibility and potential cost savings for affected businesses, offering a positive impact on private sector jobs. Further, the amendments allow the Department, rather than EPA, to be the primary agency to implement the standards in Iowa, thereby allowing the Department to provide compliance assistance to affected facilities.

These amendments are intended to implement Iowa Code section 455B.133.

The amendments will become effective on April 18, 2018.

The following amendments are adopted.

ITEM 1. Amend rule ~~567—20.2(455B)~~, definitions of “EPA reference method” and “Volatile organic compounds,” as follows:

“EPA reference method” means the following methods used for performance tests and continuous monitoring systems:

1. Performance test (stack test). A stack test shall be conducted according to EPA reference methods specified in 40 CFR 51, Appendix M (as amended through ~~April 2, 2014~~ August 30, 2016); 40 CFR 60, Appendix A (as amended through ~~February 27, 2014~~ August 30, 2016); 40 CFR 61, Appendix B (as amended through ~~February 27, 2014~~ August 30, 2016); and 40 CFR 63, Appendix A (as amended through ~~February 27, 2014~~ August 30, 2016).

2. Continuous monitoring systems. Minimum performance specifications and quality assurance procedures for performance evaluations of continuous monitoring systems are as specified in 40 CFR 60, Appendix B (as amended through ~~February 27,~~

~~2014~~ August 30, 2016); 40 CFR 60, Appendix F (as amended through ~~February 27, 2014~~ August 30, 2016); 40 CFR 75, Appendix A (as amended through ~~January 18, 2012~~ August 30, 2016); 40 CFR 75, Appendix B (as amended through ~~March 28, 2011~~ August 30, 2016); and 40 CFR 75, Appendix F (as amended through ~~January 18, 2012~~ August 30, 2016).

“Volatile organic compounds” or *“VOC”* means any compound included in the definition of *“volatile organic compounds”* found at 40 CFR Section 51.100(s) as amended through ~~March 27, 2014~~ August 1, 2016.

ITEM 2. Amend paragraph **22.1(2)“i,”** introductory paragraph, as follows:

i. Initiation of construction, installation, reconstruction, or alteration (modification) to equipment (as defined in rule 567—20.2(455B)) on or before October 23, 2013, which will not result in a net emissions increase (as defined in ~~paragraph 22.5(1)“f”~~ 567—subrule 31.3(1)) of more than 1.0 lb/hr of any regulated air pollutant (as defined in rule 567—22.100(455B)). Emission reduction achieved through the installation of control equipment, for which a construction permit has not been obtained, does not establish a limit to potential emissions.

ITEM 3. Amend paragraph **22.1(2)“r”** as follows:

r. An internal combustion engine with a brake horsepower rating of less than 400 measured at the shaft, provided that the owner or operator meets all of the conditions in this paragraph. For the purposes of this exemption, the manufacturer’s nameplate rated capacity at full load shall be defined as the brake horsepower output at the shaft. The owner or operator of an engine that was manufactured, ordered, modified or reconstructed after

March 18, 2009, may use this exemption only if the owner or operator, prior to installing, modifying or reconstructing the engine, submits to the department a completed registration ⁵; on forms provided by the department (unless the engine is exempted from registration, as specified in this paragraph or on the registration form), certifying that the engine is in compliance with the following federal regulations:

(1) New source performance standards (NSPS) for stationary compression ignition internal combustion engines (40 CFR Part 60, Subpart IIII); or

(2) New source performance standards (NSPS) for stationary spark ignition internal combustion engines (40 CFR Part 60, Subpart JJJJ); and

(3) National emission standards for hazardous air pollutants (NESHAP) for reciprocating internal combustion engines (40 CFR Part 63, Subpart ZZZZ).

Use of this exemption does not relieve an owner or operator from any obligation to comply with NSPS or NESHAP requirements. An engine that meets the definition of a nonroad engine as specified in 40 CFR 1068.30 is exempt from the registration requirements of this paragraph (22.1(2)“r”).

ITEM 4. Amend subparagraph **22.1(2)“w”(1)** as follows:

(1) “Small unit” means any emission unit and associated control (if applicable) that emits less than the following:

1. 2 pounds per year of lead and lead compounds expressed as lead (40 pounds per year of lead or lead compounds for equipment for which initiation of construction, installation, reconstruction, or alteration (as defined in rule 567—20.2(455B)) occurred on or before October 23, 2013);

2. 5 tons per year of sulfur dioxide;
3. 5 tons per year of nitrogen oxides;
4. 5 tons per year of volatile organic compounds;
5. 5 tons per year of carbon monoxide;
6. 5 tons per year of particulate matter (particulate matter as defined in 40 CFR Part 51.100(pp));
7. 2.5 tons per year of PM10;
8. 0.52 tons per year of PM 2.5 (does not apply to equipment for which ~~initiation~~ initiation of construction, installation, reconstruction, or alteration (as defined in rule 567—20.2(455B)) occurred on or before October 23, 2013); ~~or~~ and
9. 5 tons per year of hazardous air pollutants (as defined in rule 567—22.100(455B)).

For the purposes of this exemption, “emission unit” means any part or activity of a stationary source that emits or has the potential to emit any pollutant subject to regulation under the Act. This exemption applies to existing and new or modified “small units.”

An emission unit that emits hazardous air pollutants (as defined in rule 567—22.100(455B)) is not eligible for this exemption if the emission unit is required to be reviewed for compliance with 567—subrule 23.1(3), emission standards for hazardous air pollutants (40 CFR 61, NESHAP), or 567—subrule 23.1(4), emission standards for hazardous air pollutants for source categories (40 CFR 63, NESHAP).

An emission unit that emits air pollutants that are not regulated air pollutants as defined in rule 567—22.100(455B) shall not be eligible to use this exemption.

ITEM 5. Amend paragraph **22.8(1)“a”** as follows:

a. Definition. “Sprayed material” is material ~~sprayed from~~ applied by spray equipment when used in ~~the~~ a surface coating process in ~~the~~ a spray booth, including but not limited to paint, solvents, and mixtures of paint and solvents. Powder coatings applied in an indoor-vented spray booth equipped with filters or overspray powder recovery systems are not considered sprayed material for purposes of this rule (567—22.8(455B)).

ITEM 6. Amend rule **567—22.100(455B)**, definition of “EPA reference method,” as follows:

“EPA reference method” means the following methods used for performance tests and continuous monitoring systems:

1. Performance test (stack test). A stack test shall be conducted according to EPA reference methods specified in 40 CFR 51, Appendix M (as amended through ~~April 2, 2014~~ August 30, 2016); 40 CFR 60, Appendix A (as amended through ~~February 27, 2014~~ August 30, 2016); 40 CFR 61, Appendix B (as amended through ~~February 27, 2014~~ August 30, 2016); and 40 CFR 63, Appendix A (as amended through ~~February 27, 2014~~ August 30, 2016).

2. Continuous monitoring systems. Minimum performance specifications and quality assurance procedures for performance evaluations of continuous monitoring systems are as specified in 40 CFR 60, Appendix B (as amended through ~~February 27, 2014~~ August 30, 2016); 40 CFR 60, Appendix F (as amended through ~~February 27, 2014~~ August 30, 2016); 40 CFR 75, Appendix A (as amended through ~~January 18, 2012~~ August 30, 2016); 40 CFR 75, Appendix B (as amended through ~~March 28, 2011~~ August 30, 2016);

and 40 CFR 75, Appendix F (as amended through ~~January 18, 2012~~ August 30, 2016).

ITEM 7. Amend subparagraph **22.103(2)“b”(6)** as follows:

(6) Internal combustion engines that are used for emergency response purposes with a brake horsepower rating of less than 400 measured at the shaft. The manufacturer’s nameplate rating at full load shall be defined as the brake horsepower output at the shaft. Emergency engines that are subject to any of the following federal regulations are not considered to be insignificant activities for purposes of this rule (567—22.103(455B)):

1. New source performance standards (NSPS) for stationary compression ignition internal combustion engines (40 CFR Part 60, Subpart IIII);
2. New source performance standards (NSPS) for stationary spark ignition internal combustion engines (40 CFR Part 50, Subpart JJJJ); or
3. National emission standards for hazardous air pollutants (NESHAP) for reciprocating internal combustion engines (40 CFR Part 63, Subpart ZZZZ).

ITEM 8. Amend subrule 22.106(2) as follows:

22.106(2) *Emissions inventory and documentation due dates.* The emissions inventory shall be submitted with forms specified by the department. ~~For emissions located in Polk County or Linn County, three copies of the following forms documenting actual emissions for the previous calendar year shall be submitted annually by March 31 documenting actual emissions for the previous calendar year.~~ For emissions in all other counties, two copies of the ~~following~~ forms documenting actual emissions for the previous calendar year shall be submitted annually by March 31, ~~documenting actual emissions for~~

~~the previous calendar year.:~~

~~a. Form 1.0, "Facility Identification";~~

~~b. Form 4.0, "Emission Unit Actual Operations and Emissions" for each emission unit;~~

~~c. Form 5.0, "Title V Annual Emissions Summary/Fee"; and~~

~~d. Part 3, "Application Certification."~~

Alternatively, an owner or operator may submit the required emissions inventory information through the electronic submittal format specified by the department.

If there are any changes to the emission calculation form, the department shall make revised forms available to the public by January 1. If revised forms are not available by January 1, forms from the previous year may be used and the year of emissions documented changed. The department shall calculate the total statewide Title V emissions for the prior calendar year and make this information available to the public no later than April 30 of each year.

ITEM 9. Amend subrule 22.107(6) as follows:

22.107(6) *Public notice and public participation.*

a. The permitting authority shall provide public notice and an opportunity for public comments, including an opportunity for a hearing, before taking any of the following actions: issuance, denial or renewal of a permit; or significant modification or revocation or reissuance of a permit.

b. Notice shall be given by ~~publication in a newspaper of general circulation in the area where the source is located or in a state publication~~ posting of the notice,

including the draft permit, for the duration of the public comment period on a public website identified by the permitting authority and designed to give general public notice.

Notice also shall be given to persons on a mailing list developed by the permitting authority, including those who request in writing to be on the list. The department may use other means if necessary to ensure adequate notice to the affected public.

c. to g. No change.

ITEM 10. Amend rule ~~567—22.120(455B)~~, definition of “40 CFR Part 75,” as follows:

“40 CFR Part 75,” or any cited provision therein, shall mean 40 Code of Federal Regulations Part 75, or the cited provision therein, as amended through ~~January 18, 2012~~ August 30, 2016.

ITEM 11. Amend subrule 23.1(2) as follows:

23.1(2) *New source performance standards.* The federal standards of performance for new stationary sources, as defined in 40 Code of Federal Regulations Part 60 as amended or corrected through ~~September 11, 2015~~ September 14, 2016, are adopted by reference, except § 60.530 through § 60.539b (Part 60, Subpart AAA), and shall apply to the following affected facilities. The corresponding 40 CFR Part 60 subpart designation is in parentheses. An earlier date for adoption by reference may be included with the subpart designation in parentheses. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C), quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part

60 also apply to the affected facilities.

a. to qqq. No change.

rrr. Municipal solid waste landfills, as defined by 40 CFR 60.751. Each municipal solid waste landfill that commenced construction, reconstruction or modification or began accepting waste on or after May 30, 1991, must comply. (Subpart WWW as amended through April 10, 2000)

sss. to bbbbb. No change.

ITEM 12. Amend subrule 23.1(3), introductory paragraph, as follows:

23.1(3) *Emission standards for hazardous air pollutants.* The federal standards for emissions of hazardous air pollutants, 40 Code of Federal Regulations Part 61 as amended or corrected through ~~February 27, 2014~~ August 30, 2016, and 40 CFR Part 503 as adopted on August 4, 1999, are adopted by reference, except 40 CFR §61.20 to §61.26, §61.90 to §61.97, §61.100 to §61.108, §61.120 to §61.127, §61.190 to §61.193, §61.200 to §61.205, §61.220 to §61.225, and §61.250 to §61.256, and shall apply to the following affected pollutants and facilities and activities listed below. The corresponding 40 CFR Part 61 subpart designation is in parentheses. Reference test methods (Appendix B), compliance status information requirements (Appendix A), quality assurance procedures (Appendix C) and the general provisions (Subpart A) of Part 61 also apply to the affected activities or facilities.

ITEM 13. Amend subrule 23.1(4) as follows:

23.1(4) *Emission standards for hazardous air pollutants for source categories.* The

federal standards for emissions of hazardous air pollutants for source categories, 40 Code of Federal Regulations Part 63 as amended or corrected through ~~July 25, 2016~~ September 14, 2016, are adopted by reference, except those provisions which cannot be delegated to the states. The corresponding 40 CFR Part 63 subpart designation is in parentheses. An earlier date for adoption by reference may be included with the subpart designation in parentheses. 40 CFR Part 63, Subpart B, incorporates the requirements of Clean Air Act Sections 112(g) and 112(j) and does not adopt standards for a specific affected facility. Test methods (Appendix A), sources defined for early reduction provisions (Appendix B), and determination of the fraction biodegraded (F_{bio}) in the biological treatment unit (Appendix C) of Part 63 also apply to the affected activities or facilities. For the purposes of this subrule, “hazardous air pollutant” has the same meaning found in 567—22.100(455B). For the purposes of this subrule, a “major source” means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless a lesser quantity is established, or in the case of radionuclides, where different criteria are employed. For the purposes of this subrule, an “area source” means any stationary source of hazardous air pollutants that is not a “major source” as defined in this subrule. Paragraph 23.1(4) “a,” general provisions (Subpart A) of Part 63, shall apply to owners or operators who are subject to subsequent subparts of 40 CFR Part 63 (except when otherwise specified in a particular subpart or in a relevant standard) as adopted by reference below.

a. to bw. No change.

bx. ~~Emission standards for hazardous air pollutants for ferroalloys production: ferromanganese and silicomanganese. These standards apply to all new and existing major sources of ferroalloys production of ferromanganese and silicomanganese. Affected processes include, but are not limited to, submerged arc furnaces, metal oxygen refining (MOR) processes, crushing and screening operations, and fugitive dust sources. (Subpart XXX) Reserved.~~

by. to ei. No change.

ej. Emission standards for hazardous air pollutants for area sources: industrial, commercial, and institutional boilers. This standard applies to new and existing industrial, commercial and institutional boilers that are area sources for hazardous air pollutant emissions. (Part 63, Subpart JJJJJ)

ek. to fd. No change.

ITEM 14. Amend subrule 23.1(5) as follows:

23.1(5) Emission guidelines. The emission guidelines and compliance times for existing sources, as defined in 40 Code of Federal Regulations Part 60 as amended through June 9, 2006, shall apply to the following affected facilities. The corresponding 40 CFR Part 60 subpart designation is in parentheses. An earlier date for adoption by reference may be included with the subpart designation in parentheses. The control of the designated pollutants will be in accordance with federal standards established in Sections 111 and 129 of the Act and 40 CFR Part 60, Subpart B (Adoption and Submittal of State Plans for Designated Facilities), and the applicable subpart(s) for the existing source. Reference test methods (Appendix A), performance specifications (Appendix B), determination of

emission rate change (Appendix C), quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part 60 also apply to the affected facilities.

a. Emission guidelines for municipal solid waste landfills (Subpart Cc). Emission guidelines and compliance times for the control of certain designated pollutants from designated municipal solid waste landfills shall be in accordance with federal standards established in Subparts Cc (Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills) and WWW (Standards of Performance for Municipal Solid Waste Landfills) of 40 CFR Part 60 as amended through April 10, 2000).

(1) to (6) No change.

b. No change.

c. Emission guidelines and compliance schedules for existing commercial and industrial solid waste incineration units that commenced construction on or before November 30, 1999. Emission guidelines and compliance schedules for the control of designated pollutants from affected commercial and industrial solid waste incinerators that commenced construction on or before November 30, 1999 shall be in accordance with ~~federal plan~~ requirements established in Subpart III of 40 CFR Part 62 and 40 CFR §62.3916, as adopted through August 24, 2004.

d. No change.

ITEM 15. Amend subrule 25.1(9) as follows:

25.1(9) *Methods and procedures.* Stack sampling and associated analytical methods used to evaluate compliance with emission limitations of 567—Chapter 23 or a permit condition are as follows:

a. *Performance test (stack test).* A stack test shall be conducted according to EPA reference methods as specified in 40 CFR 51, Appendix M (as amended through ~~April 2, 2014~~ August 30, 2016); 40 CFR 60, Appendix A (as amended through ~~February 27, 2014~~ August 30, 2016); 40 CFR 61, Appendix B (as amended through ~~February 27, 2014~~ August 30, 2016); and 40 CFR 63, Appendix A (as amended through ~~February 27, 2014~~ August 30, 2016). The owner of the equipment or the owner's authorized agent may use an alternative methodology if the methodology is approved by the department in writing before testing. Each test shall consist of at least three separate test runs. Unless otherwise specified by the department, compliance shall be assessed on the basis of the arithmetic mean of the emissions measured in the three test runs.

b. *Continuous monitoring systems.* Minimum performance specifications and quality assurance procedures for performance evaluations of continuous monitoring systems are as specified in 40 CFR 60, Appendix B (as amended through ~~February 27, 2014~~ August 30, 2016); 40 CFR 60, Appendix F (as amended through ~~February 27, 2014~~ August 30, 2016); 40 CFR 75, Appendix A (as amended through ~~January 18, 2012~~ August 30, 2016); 40 CFR 75, Appendix B (as amended through ~~March 28, 2011~~ August 30, 2016); and 40 CFR 75, Appendix F (as amended through ~~January 18, 2012~~ August 30, 2016). The owner of the equipment or the owner's authorized agent may use an alternative methodology for continuous monitoring systems if the methodology is approved by the department in writing before the minimum performance specification and quality assurance procedure is conducted.

c. No change.

ITEM 16. Amend rule 567—25.2(455B) as follows:

567—25.2(455B) Continuous emission monitoring under the acid rain program. The continuous emission monitoring requirements for affected units under the acid rain program as provided in 40 CFR Part 75, including Appendices A, B, F and K as amended through ~~January 18, 2012~~ August 30, 2016, are adopted by reference.

ITEM 17. Amend paragraph **30.4(2)“b”** as follows:

b. Fee and documentation due dates. The fee shall be submitted annually by July 1 with forms specified by the department. ~~The fee shall be submitted with a copy of the following forms:~~

- (1) ~~Form 1.0, “Facility Identification”;~~
- (2) ~~Form 5.0, “Title V Annual Emissions Summary/Fee”;~~ and
- (3) ~~Part 3, “Application Certification.”~~

ITEM 18. Amend rule 567—33.1(455B), introductory paragraph, as follows:

567—33.1(455B) Purpose. This chapter implements the major New Source Review (NSR) program contained in Part C of Title I of the federal Clean Air Act as amended on November 15, 1990, and as promulgated under 40 CFR 51.166 and 52.21 as amended through ~~August 19, 2015~~ October 18, 2016. This is a preconstruction review and permitting program applicable to new or modified major stationary sources of air pollutants regulated under Part C of the Clean Air Act as amended on November 15, 1990. In areas that do not meet the national ambient air quality standards (NAAQS), the nonattainment major

program applies. The requirements for the nonattainment major NSR program are set forth in 567—22.5(455B), 567—22.6(455B), 567—31.20(455), and 567—31.3(455B). In areas that meet the NAAQS, the PSD program applies. Collectively, the nonattainment major and PSD programs are referred to as the major NSR program. An owner or operator required to apply for a construction permit under 567—Chapter 33 shall submit fees as required in 567—Chapter 30.

ITEM 19. Amend subrule **33.3(1)**, definition of “Volatile organic compounds,” as follows:

“Volatile organic compounds” or “VOC” means any compound included in the definition of “volatile organic compounds” found at 40 CFR 51.100(s) as amended through ~~March 27, 2014~~ August 1, 2016.

ITEM 20. Amend subrule 33.3(17) as follows:

33.3(17) *Public participation.*

a. The department shall notify all applicants within 30 days as to the completeness of the application or any deficiency in the application or information submitted. In the event of such a deficiency, the date of receipt of the application shall be the date on which the department received all required information.

b. Within one year after receipt of a complete application, the department shall:

(1) Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

(2) Make available in at least one location in each region in which the proposed

source would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination.

(3) Notify the public, by ~~advertisement in a newspaper of general circulation in each region in which the proposed source would be constructed,~~ posting on a publicly available website identified by the department, of the application, of the preliminary determination, of the degree of increment consumption that is expected from the source or modification, and of the opportunity for comment at a public hearing as well as written public comment. The electronic notice shall be available for the duration of the public comment period and shall include the notice of public comment, the draft permit(s), information on how to access the administrative record for the draft permit(s) and how to request or attend a public hearing on the draft permit(s). The department may use other means if necessary to ensure adequate notice to the affected public. At least 30 days shall be provided for public comment and for notification of any public hearing.

(4) to (8) No change.

c. No change.

ITEM 21. Amend subrule 33.3(22) as follows:

33.3(22) Permit rescission. Any permit issued under 40 CFR 52.21 or this chapter or any permit issued under rule 567—22.4(455B) shall remain in effect unless and until it is rescinded. The department will consider requests for rescission that meet the conditions specified under paragraphs “a” and “b” of this subrule. If the department rescinds a permit or a condition in a permit issued under 40 CFR 52.21, this chapter, or rule 567—

22.4(455B), the public shall be given adequate notice of the proposed rescission.

~~Publication~~ Posting of an announcement of rescission ~~in a newspaper of general circulation in the affected region~~ on a publicly available website identified by the department 60 days prior to the proposed date for rescission shall be considered adequate notice.

a. and *b.* No change.

ITEM 22. Rescind and reserve rules **567—34.200(455B)** to **567—34.229(455B)**.

Administrative Rules JOBS IMPACT STATEMENT

1. BACKGROUND INFORMATION

Agency:	Environmental Protection Commission (Commission)/Department of Natural Resources (Department)
IAC Citation:	567 IAC Chapters 20, 22, 23, 25, 30, 33 and 34.
Agency Contact:	Christine Paulson (515) 725-9510
Statutory Authority:	Iowa Code sections 455B.133. United States Clean Air Act Sections 110 (42 USC §7410), 111 (42 USC §7411), 112 (42 USC §7412) and 501-507 (42 USC §7661 - §7661f)
Objective:	<p>The purpose of the proposed air quality rule changes is to:</p> <p>1) Rescind unnecessary rules and update other rules to provide regulatory certainty and flexibility. The proposed rules will implement a portion of the Department's 5-year rules review plan to accomplish the requirements of Iowa Code section 17A.7(2).</p> <p>2) Offer uniform rules by making changes that match federal regulations and eliminating inconsistency between federal and state rules. By adopting federal updates into state administrative rules, the Commission is ensuring that Iowa's air quality rules are no more stringent than federal regulations. Additionally, the updates allow the Department, rather than the EPA, to be the primary agency to implement the air quality requirements in Iowa, thereby allowing the Department to provide compliance assistance and outreach to affected facilities.</p>
Summary:	<p>The proposed rule changes continue previous efforts to identify rules that can be rescinded or amended for air quality programs, including construction permits, Title V permits, Prevention of Significant Deterioration (PSD), air toxics standards, and testing and monitoring methods because the rules are outdated or obsolete. The proposed rules achieve a purpose similar to the Regulatory Certainty rulemaking package adopted earlier this year.</p> <p>The rule changes also include adoption of new and revised federal air toxics standards (also known as National Emissions Standards for Hazardous Air Pollutants or NESHAP) and new source performance standards (NSPS). These include changes affecting existing federal standards that are already adopted by reference, but that EPA has since amended. Adopting EPA's amendments allows state rules to be consistent with federal regulations, and provides certainty to affected businesses and other interested stakeholders.</p>

2. JOB IMPACT ANALYSIS

<input type="checkbox"/> Fill in this box if impact meets these criteria:
<input type="checkbox"/> No Job Impact on private sector jobs and employment opportunities in the State.
<input type="checkbox"/> Job Impact cannot be determined.

<input checked="" type="checkbox"/> Fill in this box if impact meets either of these criteria:
<input checked="" type="checkbox"/> Positive Job Impact on private sector jobs and employment opportunities in the State. <input type="checkbox"/> Negative Job Impact on private sector jobs and employment opportunities in the State.
<i>Description and quantification of the nature of the impact the proposed rule will have on private sector jobs and employment opportunities:</i>
<p>After analysis and review, the Department has determined that most of the proposed changes will have either a positive or a neutral impact on private sector jobs.</p> <p>The proposed rules include rescinding unnecessary rules, updating other rules, and streamlining the rules to provide regulatory certainty and, in many cases, regulatory flexibility. The proposed changes include:</p> <ul style="list-style-type: none">• Correcting and clarifying the construction permit exemptions and Title V insignificant activities.• Providing regulatory relief to facilities applying for a paint booth permit by rule by exempting powder-coating operations from the eligibility criteria for the permit by rule.• Eliminating the reference to specific forms required for the Title V emissions inventory and fees to provide flexibility for the Department to streamline the forms and submittal methods.• Rescinding lengthy rules adopted to implement the federal Clean Air Interstate Rule (CAIR), now that CAIR is no longer in effect. <p>These changes implement a portion of the Department's 5-year rules review plan as required under Iowa Code section 17A.7(2). Affected businesses and the public benefit from clear and up-to-date air quality requirements.</p> <p>Additionally, the proposed rules make changes that match federal regulations and eliminate inconsistency between federal and state rules, including:</p> <ul style="list-style-type: none">• Adopting the most current EPA methods for measuring air pollutant emissions (stack testing and continuous monitoring). EPA eliminated outdated procedures and added alternative testing methods.• Updating the state's Title V and PSD rules to reflect EPA's recent revisions that allow electronic methods for providing public notice of the opportunity to provide comments on draft permits. <p>By adopting federal updates into state rules, the Commission is ensuring that Iowa's air quality rules are no more stringent than federal regulations.</p>

In some cases, the revised federal standards proposed for adoption provide more flexibility and potential cost savings for affected businesses, offering a positive impact on private sector jobs. Further, the proposed amendments allow the Department rather than EPA to be the primary agency to implement the standards in Iowa, thereby allowing the Department to provide compliance assistance to affected facilities.

For the adoption of new and amended NSPS and NESHAP standards, the Department has determined that there may be fiscal impacts to Iowa businesses. However, the proposed amendments are only implementing federally mandated regulations. The amendments are identical to the federal regulations and would not impose any regulations on Iowa businesses not already required by federal law.

The Department estimated potential impacts from adopting the new and revised federal NSPS and NESHAP, as described below.

Industrial, Commercial and Institutional Boilers for Area Sources – New NESHAP

The Department estimates that 13 facilities have boilers affected by this NESHAP (also known as the Area Source Boiler Rule), based on notifications facilities submitted to the Department. Through litigation and reconsideration activities that occurred from 2011-2016, EPA provided clarification, flexibilities and regulatory relief to affected facilities.

The Commission is adopting these standards by reference so that requirements are no more or less stringent than federal regulations. Additionally, the Department estimates that all potentially affected facilities are required to comply only with work practice standards (rather than emission limits). Facilities were required to comply with the Area Source Boiler Rule by the federal compliance date of March 21, 2014, or upon start-up of the affected boiler.

Current Remand of Area Source Boiler Rule

On July 26, 2016, the U.S. Court of Appeals District of Columbia (D.C. Circuit) granted EPA's request to issue a remand (without vacatur) of specific provisions of the final regulations. The remand requires that EPA provide data to justify decisions that resulted in some requirements in the final regulations. None of the provisions in the final rules are stayed or delayed as a result of the D.C. Circuit's remand. Although the remand may impact emission standards and monitoring requirements in the Area Source Boiler Rule, none of the facilities in Iowa are affected by the emissions limits or monitoring requirements. Lastly, the compliance date for affected existing facilities to comply with work practice standards was March 21, 2014, so facilities have already had to comply with the NESHAP for over three years.

As noted above, affected facilities typically prefer for the Department, rather than the EPA, to be the primary implementation authority in Iowa. Upon adoption of the Area Source Boiler Rule, the Department will work with affected facilities to provide compliance assistance, as needed. Additionally, affected area sources that are small businesses are eligible for free assistance from the small business technical assistance program.

Ferroalloys Production NESHAP

The Commission is proposing to **rescind** adoption of the NESHAP for ferroalloys production of

ferromanganese and silicomanganese. Iowa has never had any facilities affected by this NESHAP, and is unlikely to have any affected facilities operating in Iowa in the future. If an affected facility should plan to locate to Iowa, the Department will evaluate whether to request adoption of the standards at that time.

Categories of jobs and employment opportunities that are affected by the proposed rule:
Facilities operating boilers or incinerators.

Number of jobs or potential job opportunities:
Cannot be determined at this time.

Regions of the state affected:
All regions of the state.

Additional costs to the employer per employee due to the proposed rule: (if not possible to determine, write "Not Possible to Determine.")
No additional costs to the employer.

3. COST-BENEFIT ANALYSIS

The Agency has taken steps to minimize the adverse impact on jobs and the development of new employment opportunities before proposing a rule. See the following Cost-Benefit Analysis:

No other less intrusive or expensive method exists for achieving the purpose of the proposed rules.

Administrative Rule Fiscal Impact Statement

Date: January 29, 2018

Agency: Environmental Protection Commission (Commission) / Department of Natural Resources (Department)

IAC Citation: 567 IAC Chapters 20, 22, 23, 25, 30, 33 and 34

Agency Contact: Christine Paulson

Summary of the Rule:

The proposed air quality rule changes will:

1) *Rescind unnecessary rules and update other rules to provide regulatory certainty and flexibility.* The proposed rules will implement a portion of the Department's 5-year rules review plan to accomplish the requirements of Iowa Code section 17A.7(2). The proposed rule changes continue previous efforts to identify rules that can be rescinded or amended for air quality programs, including construction permits, Title V permits, Prevention of Significant Deterioration (PSD), air toxics standards, and testing and monitoring methods because the rules are outdated or obsolete. The proposed rules achieve a purpose similar to the Regulatory Certainty rulemaking package adopted earlier this year.

2) *Offer uniform rules by making changes that match federal regulations and eliminating inconsistency between federal and state rules.* The rule changes adopt new and revised federal air toxics standards and new source performance standards. These include changes affecting existing federal standards that are already adopted by reference, but EPA has since amended. By adopting federal updates into state administrative rules, the Commission is ensuring that Iowa's air quality rules are no more stringent than federal regulations. Adopting EPA's amendments also allows state rules to be consistent with federal regulations, and provides certainty to affected businesses and other interested stakeholders. Additionally, the updates allow the Department, rather than the EPA, to be the primary agency to implement the air quality requirements in Iowa, thereby allowing the Department to provide compliance assistance and outreach to affected facilities.

Fill in this box if the impact meets these criteria:

☒ No Fiscal Impact to the State.

☐ Fiscal Impact of less than \$100,000 annually or \$500,000 over 5 years.

☐ Fiscal Impact cannot be determined.

Brief Explanation:

The Department will use existing budget and resources to implement the rule.

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 2015)</u>	<u>Year 2 (FY 2016)</u>
Revenue by Each Source:		
GENERAL FUND	\$0	\$0
FEDERAL FUNDS	\$0	\$0
Other (specify)	\$0	\$0
	<hr/>	<hr/>
	\$0	\$0
<i>TOTAL REVENUE</i>		
Expenditures:		
GENERAL FUND	\$0	\$0
FEDERAL FUNDS	\$0	\$0
Other (specify)	\$0	\$0
	<hr/>	<hr/>
	\$0	\$0
<i>TOTAL EXPENDITURES</i>		
	\$0	\$0
<i>NET IMPACT</i>		

 X This rule is required by State law or Federal mandate.

Please identify the state or federal law:

The rule change will implement Iowa Code sections 455B.133, as well as the United States Clean Air Act sections 110 (42 USC §7410), 111 (42 USC §7411), 112 (42 USC §7412) and 501-507 (42 USC §7661 - §7661f).

 Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

 X Funding has not been provided for the rule.

Please explain how the agency will pay for the rule change:

The Department will utilize existing resources at this time.

Fiscal impact to persons affected by the rule:

The Department has determined that most of the proposed changes will have either a positive or negligible fiscal impact on affected facilities. These amendments rescind unnecessary rules, update other rules, and streamline the rules to provide regulatory certainty and, in many cases, regulatory flexibility. The proposed changes include:

- Correcting and clarifying the construction permit exemptions and Title V insignificant activities.
- Providing regulatory relief to facilities applying for a paint booth permit by rule by exempting powder-coating operations from the eligibility criteria for the permit by rule.
- Eliminating the reference to specific forms required for the Title V emissions inventory and fees to provide flexibility for the Department to streamline the forms and submittal methods.
- Rescinding lengthy rules adopted to implement the federal Clean Air Interstate Rule (CAIR), now that CAIR is no longer in effect.

These changes implement a portion of the Department's 5-year rules review plan as required under Iowa Code section 17A.7(2).

Additionally, the proposed rules make changes that match federal regulations and eliminate inconsistency between federal and state rules, including:

- Adopting the most current EPA methods for measuring air pollutant emissions (stack testing and continuous monitoring). EPA eliminated outdated procedures and added alternative testing methods.
- Updating the state's Title V and PSD rules to reflect EPA's recent revisions that allow electronic methods for providing public notice of the opportunity to provide comments on draft permits.

In some cases, the revised federal standards provide more flexibility and potential cost savings, offering a positive fiscal impact on affected facilities. For the adoption of new and amended federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP), the Department determined that some affected facilities could experience negative fiscal impacts. However, the proposed amendments are only implementing federally mandated regulations. The amendments are identical to the federal regulations and would not impose any regulations on Iowa businesses not already required by federal law.

Industrial, Commercial and Institutional Boilers for Area Sources – New NESHAP

The Department estimates that 13 facilities have boilers affected by this NESHAP, based on notifications facilities submitted to the Department. Through litigation and reconsideration activities that occurred from 2011-2016, EPA provided clarification, flexibilities and regulatory relief to affected facilities. The Commission is adopting these standards by reference so that requirements are no more or less stringent than federal regulations. Additionally, the Department estimates that all potentially affected facilities are required to comply only with work practice standards (rather than emission limits). Facilities were required to comply with the NESHAP by the federal compliance date of March 21, 2014, or upon start-up of the affected boiler.

Fiscal impact to persons affected by the rule (con't):

Current Remand of Area Source Boiler Rule

On July 26, 2016, the U.S. Court of Appeals District of Columbia (D.C. Circuit) granted EPA's request to issue a remand (without vacatur) of specific provisions of the final regulations. The remand requires that EPA provide data to justify decisions that resulted in some requirements in the final regulations. None of the provisions in the final rules are stayed or delayed as a result of the D.C. Circuit's remand. Although the remand may impact emission standards and monitoring requirements in the Area Source Boiler Rule, none of the facilities in Iowa are affected by the emissions limits or monitoring requirements. Lastly, the compliance date for affected existing facilities to comply with work practice standards was March 21, 2014, so facilities have already had to comply with the NESHAP for over three years.

As noted above, affected facilities typically prefer for the Department, rather than the EPA, to be the primary implementation authority in Iowa. Upon adoption of the Area Source Boiler Rule, the Department will work with affected facilities to provide compliance assistance, as needed. Additionally, affected area sources that are small businesses are eligible for free assistance from the small business technical assistance program.

Ferroalloys Production NESHAP

The Commission is proposing to rescind adoption of the NESHAP for ferroalloys production of ferromanganese and silicomanganese. Iowa has never had any facilities affected by this NESHAP, and is unlikely to have any affected facilities operating in Iowa in the future. If an affected facility should plan to locate to Iowa, the Department will evaluate whether to request adoption of the standards at that time.

Fiscal impact to Counties or other Local Governments (required by Iowa Code 25B.6):

Linn County and Polk County have state-approved local air quality programs, and would likely adopt changes to their ordinances and procedures that match any changes to state rules. If a city or county government is subject to the air quality rules being amended, the local governments would be affected in the same manner as described above for industries and businesses.